IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08/10/2004

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The Honourable Mr. B. SUBHASHAN REDDY, Chief Justice
and
The Honourable Mrs. Justice PRABHA SRIDEVAN

W.P. No.20038 of 2004
and W.P.Nos., 20042, 20043, 20529 and 20725 of 2004
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W.P. No.20038 of 2004

V. Subramanian ... Petitioner

-Vs-

1. Union of India,
rep. by its Secretary to
Ministry of Law & Justice,
Department of Justice,
New Delhi - 110 001.

2. The Registrar General,
High Court of Madras,
Chennai - 600 104.

3. Madurai Bar Association,
rep. by its Secretary A.K. Ramasamy
8, Nanmai Tharuwarkoil, Arsikere St.,
Madurai - 1.

4. K. Sultan Allowdhin,
Executive President, All India Lawyers' Union,
Madurai District Committee,
66, Law Chambers, Madurai Dist. Court Complex,
Madurai - 625 020. ... Respondents

Petition under Article 226 of Constitution of India for the issuance
of Writ of Declaration for the reasons stated therein

W.P. No.20042 of 2004

Y. Deva Arul Prakash ... Petitioner

Vs.

1. Union of India,
rep. by its Secretary to Ministry of Law, Justice
& Company Affairs,
NEW DELHI.

2. The Registrar General,
High Court of Judicature at Madras,
Chennai - 600 104. ... Respondents

Petition under Article 226 of Constitution of India for the issuance
of Writ of Declaration for the reasons stated therein.

W.P. No.20043 of 2004

V. Chandrasekaran ... Petitioner

Vs.

1. Union of India,
rep. by Ministry of Law, Justice
& Company Affairs,
NEW DELHI.

2. The Registrar General,
High Court of Judicature at Madras,
Chennai - 600 104. ... Respondents

Petition under Article 226 of Constitution of India for the issuance
of Writ of Declaration for the reasons stated therein.

W.P. No.20529 of 2004

D. Selvam ... Petitioner

Vs.

1. Union of India,
rep. by its Secretary to Ministry of Law, Justice
& Company Affairs,
NEW DELHI.

2. The Registrar General,
High Court of Judicature at Madras,
Chennai - 600 104. ... Respondents

Petition under Article 226 of Constitution of India for the issuance
of Writ of Declaration for the reasons stated therein.

W.P. No.20725 of 2004

N. Senthilvelan ... Petitioner

Vs.

1. Union of India,
rep. by its Secretary to Ministry of Law, Justice
& Company Affairs,
NEW DELHI.

2. The Registrar General,
High Court of Judicature at Madras,
Chennai - 600 104. ... Respondents

Petition under Article 226 of Constitution of India for the issuance of Writ of Declaration for the reasons stated therein.

!For Petitioners in W.P. Nos. : Mr. T.R. Rajagopalan, SC
20038 and 20043 of 2004 for M/s.J. Pothiraj

For Petitioner in W.P. No. : Mr. G. Rajagopalan, SC
20042 of 2004 for M/s.J. Pothiraj

For Petitioner in W.P. No.: Mr. S.R. Rajagopal
20529 of 2004

For Petitioner in W.P. No. : Mr. B. Kumaraswamy
20725 of 2004

For Respondent/Union of India : Mr. V.T. Gopalan,
Addl. Solicitor General
assisted by Mr. P. Wilson,
SCGSC.

For Respondent/Impleaded Party: Mr. K. Chandru, SC,
for Mr. R. Yashod Varadhan

Ms. R. Vaigai for
M/s.K. Elango

For 2nd Respondent in all the : Mr. V. Raghupathy, G.P.
petitions

:O R D E R

THE HONOURABLE THE CHIEF JUSTICE

At issue is the constitutionality of the Presidential Order titled '
The Madras High Court (Establishment of a Permanent Bench at Madurai) Order,

2004', hereinafter referred to as, 'the Order', issued in exercise of the powers under sub-Section (2) of Section 51 of the States Reorganisation Act, 1956 (37 of 1956), hereinafter referred to as ' the SR Act'.

2. This is a matter concerning the constitution of Madras High Court Bench at Madurai. In fact this is a second round of litigation. The earlier round of litigation went even to Supreme Court and the facts leading to the same and ultimately resulting in filing of these writ petitions are narrated below.

3. The first salvo for creation of a Bench of Madras High Court in southern region of Tamil Nadu and Madurai in particular, was fired by passing a resolution of the Bar Association at Kanniyakumari. The Bar Associations of other districts followed suit in later years and in the year 1983, the matter was referred to Justice Jaswant Singh Commission. The said Commission, after making enquiries, had filed its report in the year 1985 favouring the constitution of a Circuit Bench of Madras High Court at Madurai, to have jurisdiction over seven districts namely Kanyakumari, Madurai, Tirunelveli, Pudukkottai, Thanjavur, Ramanathapuram and Tiruchi. The said report, though initially not favoured by the then Chief Justices before 1995, on 31.8.1995, the Full Court of Madras High Court headed by Mr. K.A.Swami, the then Chief Justice, had passed a resolution favouring a Circuit Bench at Madurai. It was communicated to the Government, which vide G.O. Ms. 398, Home (Courts.VII) Department, dated 10.3.1998, accepted the decision taken by the High Court. Land was acquired at Ulaganeri, Madurai and requisite amount also was sanctioned for the construction of the building and for providing infrastructural facilities. Thereafter, the Central Government considered as to whether the SR Act can be invoked or not for constituting the Madurai Bench and it opined that SR Act can be invoked and approval was given by the then Union Minister for Law & Justice, on 14.8.1998 for establishment of Permanent Bench of Madras High Court at Madurai. By D.O. Letter No.K-11018/5/98-US-I, dated 31.12.1999, the succeeding Union Law Minister, had also opined that having regard to expiry of 14 years of Justice Jaswant Singh Commission's report, straightaway the Permanent Bench can be constituted at Madurai instead of a Circuit Bench. The said view was accepted by the then Chief Minister of Tamil Nadu and the same was communicated to the then Chief Justice of Madras High Court, who had given nod for the constitution of a Permanent Bench of Madras High Court at Madurai. The Government had accepted the same and then on 13.4.2000, foundation stone for the construction of Madurai Bench building was laid by the then Honourable the Chief Justice of India presided over by the then Chief Minister of Tamil Nadu. The building has been constructed by providing infrastructural facilities. But when the notification was to be issued, the Central Government again opined that a Parliamentary Act has to be enacted for setting up a Bench and phonographic message, to that effect, was sent to the State Government on 30.8.2002 which, in turn, was communicated to the High Court by D.O. Letter No,9 0169, dated 6.9.2002. A Committee of 3 Judges was set up to monitor the progress of the Madurai Bench building as also the provision with regard to infrastructural facilities, which include the residential quarters for the Judges manning the Madurai Bench. The Committee, in its last report dated 13.1.2004, opined that the construction of the building with infrastructural facilities would be over by 31.3.2004.

Accordingly, 13.4.2004 was fixed as the date for inauguration of Madurai Bench. For several reasons, including the General Elections notification because of the dissolution of the Lok Sabha and preponing of elections, the Madurai Bench could not be inaugurated as scheduled on 13.4.2004 and we need not give details except stating that the Presidential Notification was issued on 6.7.2004, which reads thus,

"THE MADRAS HIGH COURT (ESTABLISHMENT OF A PERMANENT BENCH AT MADURAI) ORDER,
2004.

In exercise of the powers conferred by sub-Section (2) of Section 51 of the States Reorganisation Act, 1956 (37 of 1956), the President, after consultation with the Governor of Tamil Nadu and the Chief Justice of the Madras High Court, is pleased to make the following Order, namely :-

1. Short title and commencement :

(1) This Order may be called the Madras High Court (Establishment of a Permanent Bench at Madurai) Order, 2004

(2) It shall come into force on 24.7.2004.

2. Establishment of a permanent bench of the Madras High Court at Madurai :-

There shall be established a permanent bench of the Madras High Court at Madurai and such Judges of the Madras High Court, being not less than five in number, as the Chief Justice of that High Court may, from time to time nominate, shall sit at Madurai in order to exercise the jurisdiction and powers for the time being vested in that High Court in respect of cases arising in the districts of Kanyakumari, Tirunelveli, Tuticorin, Madurai, Dindugal, Ramanathapuram, Virudhunagar, Sivaganga, Pudukkottai, Thanjavur, Nagapattinam, Tiruchirapalli, Perambalur and Karur in the State of Tamil Nadu:

Provided that the Chief Justice of that High Court may, in his discretion, order that any case or class of cases arising in any such district shall be heard at Chennai."

The same was challenged in W.P. Nos.20038 of 2004 etc. batch as being illegal and unconstitutional and in WPMP Nos.24116 of 2004 etc., interim stay was sought for but the same was refused by order dated 16.7.2004. The following is the operative portion of the order dated 16 .7.2004:

" 11.....we dispose of these Writ Petition Miscellaneous Petitions as mentioned infra:

(i) the inauguration of Madurai Bench of Madras High Court, scheduled on 24.7.2004 shall go on;

(ii) in the event of allowing of the writ petitions, the Madurai Bench so inaugurated shall continue as a Circuit Bench under Clause 31 of Letters

Patent;

(iii) the Judicial Districts of Nagapattinam and Perambalur shall be deleted from Madurai Bench jurisdiction and the first respondent shall take steps accordingly;

(iv) pending the action by the first respondent as directed above, the Madras High Court at its principal seat at Chennai shall have jurisdiction over the Judicial Districts of Nagapattinam and Perambalur also; and

(v) it is needless to mention that in the event of the dismissal of the writ petitions, the Presidential Order stands valid excepting the modifications to be made regarding the deletion of the Judicial Districts of Nagapattinam and Perambalur from the purview of Madurai Bench."

That was challenged in SLP (C) No.14057 of 2004 but the same was dismissed even at the admission stage on 23.7.2004 and consequently, on 2 4.7.2004, the Madurai Bench of Madras High Court was inaugurated.

4. Before proceeding further, it is relevant to mention about the first round of litigation viz., W.P. Nos.2402 and 3333 of 2002. W.P. No.2402 of 2002 was filed by Mr. K. Sridhar Kumar, an advocate of Madras High Court, contending that Madras High Court is not a High Court of a new State within the meaning of Section 2(i) of SR Act but is an existing State as defined under Section 2(g) of the SR Act and therefore, the whole process initiated to establish a Bench at Madurai is against the provisions of SR Act and hence illegal. W.P. No.3333 of 2002 was filed by another practicing advocate by name R. Suresh Kumar, contending that Madurai Bench could be constituted only by resorting to a Parliamentary legislation under Article 246 read with Entry 78 , List I of VII Schedule of the Constitution of India and not by any order under SR Act or even Clause 31 of Letters Patent. The two writ petitions were heard together and a common order was rendered on 26.2.2002 holding that Madras is a new State within the meaning of SR Act and that there is no legal or constitutional infirmity in constituting the Madurai Bench by invoking sub-Section (2) of Section 51 of SR Act. Even though the order dated 26.2.2002 was a common order, no writ appeal was filed as against W.P. No.2402 of 2002 but W.A. No.926 of 2002 has been preferred only against the order in W.P. No.3333 of 2002. But the Writ Appeal also was dismissed by a Division Bench of this Court by order dated 11.3.2004 against wh ich SLP (Civil) No.6120 of 2004 was filed before the Supreme Court. The SLP was dismissed by order dated 5.4.2004, which reads as follows:
"Considering the fact that (a) the Resolutions had been passed as far back as in 1995 and thereafter in 2000; (b) subsequent thereto land has been acquired and construction work already started, we see no reason to interfere at this stage. The Special Leave Petition is dismissed.

We, however, clarify that this dismissal will not preclude the petitioner from challenging the Bill or Notification for establishment of the Bench if in law, he is entitled to do so"

5. Learned senior counsel appearing for the petitioners, assailing the

Order, submit that Tamil Nadu is not a new State within the meaning of SR Act and consequently, the SR Act is not at all applicable. Mr. V.T. Gopalan, learned Additional Solicitor General, appearing for the Union of India, counters the above argument stating that Tamil Nadu is a new State by legal fiction under the SR Act and that the petitioners being advocates have no locus to maintain these writ petitions in terms of the legal principles enunciated by the Supreme Court in FEDERATION OF BAR ASSOCIATIONS IN KARNATAKA v. UNION OF INDIA (2000) 6 SCC 715). He also submits that the Writ Petitions are hit by laches as the decision to constitute the Madurai Bench was taken long back and apart from that, the judgment 26.2.2002 rendered by a single Judge in W.P. No.2402 of 2004 having not been appealed against, the same had become final and that W.A. No.926 of 2002, which has been filed against W.P. No.3333 of 2002, is of no consequence as the prayer was only to declare that Madurai Bench cannot be constituted under Clause 31 of Letters Patent.

6. Having regard to the respective contentions of the parties through their learned counsel, the following are the contentious issues which need to be addressed:
i. whether the petitioners have locus standi to maintain the writ petitions?

ii. whether the previous order dated 11.3.2004 passed in W.A. No.926 of 2002 became final so as to apply the principles analogous to the one under Section 11 of Code of Civil Procedure?

iii. Whether the order dated 5.4.2004 of the Supreme Court in SLP (C) No.6120 of 2004 gives rise to a fresh cause of action enabling the petitioners to assail the presidential notification? and

iv. whether Tamil Nadu is not a new State so as to exclude the applicability of the SR Act.

7. ISSUES (i) to (iii)

The above issues are connected and are dealt with together. The courts are created to resolve the disputes. Administration of justice is a basic structure of Constitution and every citizen has got right to get his dispute adjudicated in a legal forum and expeditiously. Cost effectiveness also adds in the efficacy of the administration of justice in the context of the accessibility to the litigant and particularly the poor. There had been a demand for Madurai Bench for cost effectiveness and also expediency and it was the policy decision taken to have a High Court Bench at Madurai to cater to the needs of the litigants of southern districts of Tamil Nadu. Of course, the said policy decision is always subject to the scrutiny by way of judicial review in the context of constitutional provisions. In so far as the division of districts are concerned, that is a question apart as there had been a debate with the advocates by a 9-Judge Committee constituted on the directions of the Honourable the Chief Justice of India and that is not an aspect, which is covered in these cases except saying that two judicial districts viz., Nagapattinam and Perambalur, have been agreed to be taken out of the

jurisdiction of Madurai Bench as there is no contest with regard to the same. But with regard to other districts, the matter will be considered only on the Administrative Side basing upon the decision taken by the Full Court of the Madras High Court. Coming to the locus, we do not need to refer to any other judgment excepting the authoritative judgment of the Supreme Court in FEDERATION OF BAR ASSOCIATIONS IN KARNATAKA v. UNION OF INDIA ( cited supra) in which, the Supreme Court has held in no uncertain terms that the advocates have got no locus to maintain writ petitions with regard to location of High Court Bench as the Courts are constituted for the purpose of litigants and that the advocates have got no role to play in the matter of location of Benches and we are bound by the said dicta under Article 141 of Indian Constitution. As a necessary corollary, we hold that the petitioners have got no locus standi to maintain these writ petitions.

8. The writ petitions have to fail even on the ground underlying the principles of res judicata under Section 11 of Code of Civil Procedure as one set of advocates who have already filed litigation in this regard have lost the brief and merely because a different set of advocates have filed these writ petitions, the matter cannot be revived. Even though Section 11 of Code of Civil Procedure is applicable to a later litigation only between the same parties, the principles underlying the said provision can be extended even where the parties are not the same, like the instant case, which is a public interest litigation and in a PIL, parties need not be same and invariably to avoid the effect of res judicata, different parties can file a PIL touching upon the same issue, but by the said strategies, the analogy under Section 11 of Code of Civil Procedure cannot be defeated. Hence, we hold that the present writ petitions are hit b y the principles of res judicata, as the judgment dated 26.2.2002 rendered in W.P. No.2402 of 2002 had become final. The litigation which has ended cannot be resurrected relying upon the observation of the Supreme Court in SLP ( C) No.6120 of 2004, which we have already extracted above. Even if we assume that the petitioners could file these writ petitions basing upon the observation of the Supreme Court in the second paragraph of the order dated 5.4.2004, it only enables the petitioners to file a writ petition if it is maintainable under law but that cannot imply that the writ petitions have got to be allowed perforce. Reserving a right to file writ petition in future cannot invest the petitioners with the right to claim the relief as of right and above order of the Supreme Court has to be only construed that the writ petitioners can file litigations but those writ petitions were filed by Mr. R. Suresh Kumar, who

is not before us and the present writ petitioners cannot avail of the observation made by the Supreme Court in its order dated 5 .4.2004 in SLP (C) No.6120 of 2004.

9. In any event of the matter, the petitioners cannot run away from the ground of laches as the first paragraph of the order of the Supreme Court dated 5.4.2004 speaks in so many terms about the laches and each word weighs i.e. year of resolution 1995, then acquisition of land and laying of foundation in 2000 and completion of construction. Hence, we hold that these writ petitions, even if are held to be maintainable and also not barred by principles of constructive res judicata, are hit by laches.

10. ISSUE No. (iv)

The whole argument is based on the proposition that the Tamil Nadu is not a new State under the SR Act. New State is defined under Section 2(i) of the SR Act as 'a Part A State formed by provisions of Part II'. Part II consists of Sections 3 to 13. Sections 3 and 4 deal with the States of Andhra Pradesh and Tamil Nadu respectively. While Section 5 deals with State of Kerala, Section 6 deals with Laccadive, Minicoy and Amindivi Islands, Section 7 with Mysore State, Section 8 with State of Bombay, Section 9 with State of Madha Pradesh, Section 10 with State of Rajasthan and Section 11 with State of Punjab. A distinction is being sought to be made by the learned senior counsel for the petitioners that while under Sections 3 and 4 it is only transfer of territory, Sections 5 to 11 give birth to new States, which were non-existent before. The said statutory provision is also traced to Article 3 of Indian Constitution which deals with formation of new States and alteration of boundaries and increase or diminishing in the areas etc. It is submitted by the learned counsel for the petitioners that sub-Article (a) to Article 3 of Indian Constitution is applicable to the States formed under Sections 5 to 11 of SR Act while sub-Articles (b) to (e) are applicable for the States of Andhra Pradesh and Tamil Nadu and by application of those sub-Articles (b) to (e) to Article 3, no new State is formed but only in the existing State, either area is increased or diminished or boundaries are altered or there is an alteration in the name of the States. Concisely speaking, the argument is while a new State is formed under sub-Article (a) to Article 3 of the Constitution, under sub-Articles (b) to (e), only the existing States undergo some change - be it in the area or in the name as with the alteration of boundaries, the areas are either diminished or increased and sub-Article (d) of Article 3 is only explanatory in nature to sub-Articles (b) and (c).
Existing state is defined in Section 2(g) of the SR Act as a State specified in the First Schedule of the Constitution at the commencement of the SR Act. The SR Act commenced on 1.11.1956 and the commencement of Constitution (7th Amendment) Act was also synchronized with the above date i.e. 1.11.1956. Before the Seventh Amendment of the Constitution and at the time of the commencement of the Constitution, the First Schedule traceable to Articles 1, 4 and 391 of the Constitution consisted of the following Part A States.
1. Assam
2. Bihar
3. Bombay
4. Madhya Pradesh
5. Madras
6. Orissa
7. Punjab
8. Uttar Pradesh
9. West Bengal

By the 7th Constitution Amendment, the First Schedule, referring to Articles 1 and 4, has done away with the categorization of Parts A, B & C States and has categorized only the States and the Union Territories. Among the States are Andhra Pradesh, Assam, Bihar, Bombay, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh, West Bengal and Jammu & Kashmir. Formation of a new State can be by separation of territory from an existing

State, union of two or more states or parts of States or uniting a territory

to a part of any State. That is so clear and evident from a reading of Section 2 of Constitution (7th Amendment) Act. We feel it apt to extract the same.

2. Amendment of article 1 and First Schedule.-(1) In Article 1 of the Constitution, -

(a) for clause (2), the following clause shall be substituted, namely:-

"(2) The States and the territories thereof shall be as specified in the First Schedule."; and

(b) in clause (3) for sub-clause (b), the following sub-clause shall be substituted, namely:-

"(b) the Union territories specified in the First Schedule; and".

(2) For the First Schedule to the Constitution as amended by the States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956, the following Schedule shall be substituted, namely:-

"FIRST SCHEDULE
(Articles 1 and 4)

I. THE STATES

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Name Territories

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1. Andhra Pradesh The territories specified in sub-Section (1) of Section 3 of the Andhra Pradesh Act, 1953 and the territories specified in sub-Section (1) of Section 3 of the States Reorganisation Act, 1956.

2. Assam The territories which immediately before the commencement of this Constitution were comprised in the province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam ( Alteration of Boundaries) Act, 1951.

3. Bihar The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if them formed part of that Province, but excluding the territories specified in sub-section (1) of Section 3 of the Bihar and West Bengal ( Transfer of Territories) Act, 1956.

4. Bombay The territories specified in sub-Section (1) of Section 8 of the States Reorganisation Act, 1956

5. Kerala The territories specified in sub-section (1) of Section 5 of the States Reorganisation Act, 1956.

6. Madhya Pradesh The territories specified in sub-Section (1) of Section 9 of the States Reogranisation Act, 1956.

7. Madras The territories which immediately before the commencement of this Constitution were either comprised in the Provinceof Madras or were being administered as if they formed part of that Province and the territories specified in Section 4 of the States Reorganisation Act, 1956, but excluding the territories specified in sub-section (1) of Section 4 of the Andhra State Act, 1953 and the territories specified in clause (b) of sub-Section (1) of Section 5, Section 6 and Clause (d) of sub- Section (1) of Section 7 of the States Reorganisation Act.

8. Mysore The territories specified in sub-Section (1) of Section 7 of the States Reorganisation Act, 1956.

9. Orissa The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.

10. Punjab The territories specified to Section 11 of the States Reorganisation Act, 1956.

11. Rajasthan The territories specified in Section 10 of the States Reogranisation Act, 1956.

12. Uttar Pradesh The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they

formed part of that province.

13. West Bengal The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (c) of Section 2 of the Chander-nagore ( Merger) Act, 1954, and also the territories specified in subSection (1) of Section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.

14. Jammu & Kashmir The territory which immediately before the commencement of this Constitution were either comprised in the Indian State of Jammu & Kashmir.

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II. THE UNION TERRITORIES

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Name Territories

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1. Delhi The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.

2. Himachal Prad. The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioner's Provinces under the names of Himachal Pradesh and Bilaspur.

3. Manipur The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.

4. Tripura The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's

Province under the name of Tripura.

5. The And. Nic. Is The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands

6. The Laccadive The territory specified in Section 6 of the Minicoy & States Reogranisation Act, 1956. Amindivi Islands

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The same is literally lifted and is incorporated as Section 12 of SR Act and there disappears any distinction between 'existing State' and 'new State' as all the Part A States, which have been formed in Part II of SR Act - name it as transfer of territory or formation of State, a new State, by legal fiction, is formed and State of Tamil Nadu, hitherto Madras, is a State which comes within the purview of a new State within the definition of Section 2(i). This is a dicta which is deducible from the judgment of the Supreme Court in STATE OF MAHARASHTRA v. NARAYAN (AIR 1983 SC 46), which was followed by the learned single Judge in W.P. No.3333 of 2002 and affirmed by the Division Bench of this Court in its judgment in W.A. No.926 of 2002 with which we agree. We accordingly hold that the State of Tamil Nadu is a new State within the meaning of the SR Act and as a necessary corollary, Section 51(2) thereof is applicable.

11. For all the reasons aforesaid, the writ petitions fail and are accordingly dismissed. No costs. However, the Presidential Notification has to be read as excluding the judicial districts of Nagapattinam and Perambalur from the purview of Madurai Bench with the further reservation that further exercise with regard to division of districts shall be subject to such decision which may be taken pursuant to the constitution of 9-Judge Committee and the action taken thereon.

12. Before parting with the case, we have to deal with one other aspect and that is Judge strength for manning the Madurai Bench. Resolutions were passed for sanction of one third strength of the then existing strength of 42, which comes to 14, out of which only 7 have been sanctioned but 7 more are yet to be sanctioned for which the Government replied that after the Madurai Bench is inaugurated, the matter relating to the increase in the strength by 7 more would be considered. In view of the large pendency of the cases and sufficient accommodation, both for Court halls and residential quarters, having been made and as the High Court had agreed for the setting up of the Madurai Bench subject to the condition of increasing the Judge strength by one third to the existing strength, the same has to be complied with. Hence, the Central Government and the Government of Tamil Nadu are hereby directed to sanction 7 more Judges to the existing strength of 49 , making it

to the total 56. This exercise has to be made by both the Governments on or before 31.12.2004.

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LR Entry : Yes

Internet : Yes